D.B. CIVIL SPECIAL APPEAL (WRIT) NO.554/2004.
(Tejmal & Anr. vs. State of Rajasthan & Ors.)

Date : 12.04.2005.

HON'BLE MR.JUSTICE N.N.MATHUR
HON'BLE MR.JUSTICE MANAK MOHTA

Mr.Hemant Shrimalee, for the appellants.
Mr.O.P. Boob, Addl. Govt. General.

We have heard learned counsel for the appellant and perused the order of the learned Single Judge dated 19.0902003.

The appellants Tejmal and Heera were sanctioned loan of Rs.2,44,000/- for purchase of tractor by the Central Co-operative Bank Limited, Asind Branch. There was default in payment. They were informed by a notice dated 30th April, 2001 to deposit the outstanding amount, failing which the mortgage amount will put to auction. The proceedings have been initiated by the Executive Officer to empower to initiate the proceedings under the provisions of Sections 115 and 118 of the Co-operative Societies Act.

It is submitted by the learned counsel that in view of the commencing of the new provisions of the Co-operative Societies Act, the proceedings under the old Act cannot be

continued. It is further submitted that the submission is supported by a Division Bench judgment of this Court. However, no such judgment has been placed before us. It appears that such contention was raised before the learned Single Judge. The learned Single Judge distinguished the authority on the ground that in the instant case the proceedings have already been initiated coming into the course of the no provisions of the Act. Learned counsel has not been able to point out any infirmity in the order of the learned Single Judge. It is however submitted that the appellants have not been provided the requisite documents. No directions in that regard can be given, as Chief Executive Officer who has initiated inquiry under Sections 115 and 118 of the Co-operative Societies Act has not been made party to the writ petition.

No interference is warranted with the order of the learned Single Judge.

The special appeal stands dismissed.

(MANAK MOHTA),J. **(N.N.MATHUR),J**

ashwini/-